

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/027,415	FOSTER, RICHARD S.	
	Examiner Steven J. Ganey	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to amendment filed 6/24/04 and interview on 12/21/04.
2.  The allowed claim(s) is/are 1-28 and 31-37.
3.  The drawings filed on 12/21/2001 are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
 of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date 12/21/04.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_

**EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Peter Shaddock on December 21, 2004.

2. The application has been amended as follows:

In the claims:

Claim 7, line 8, the word "and" has been deleted.

Claim 7, line 10, the period ". " after the word "fluid" has been deleted, and the following punctuation mark and word inserted, -- ; and --.

Claim 7, line 11, the following paragraph has been inserted:

--a float body affixed to a bottom side of the base assembly, wherein the float body includes an aperture for allowing the connection member to pass from a top side of the float body to a bottom side of the float body.--

Claims 29 and 30 have been canceled.

The above changes to claim 7 were done to incorporate the allowable subject matter of objected to claim 30, which was allowable if rewritten in independent form including all of the limitations of the base claim 7 and intervening claim 29. Claim 7 is now in condition for allowance.

3. The following is an examiner's statement of reasons for allowance of claims 1-28 and 31: The prior art did not teach or suggest a floating fountain as claimed by the applicant, specifically a floating fountain comprising a float body affixed to a bottom side of the base assembly, wherein the float body includes an aperture for allowing the connection member to pass from a top side of the float body to a bottom side of the float body, together in combination with the other claimed features of applicant's invention.

4. The following is an examiner's statement of reasons for allowance of claims 32-37: The prior art did not teach or suggest a floating fountain as claimed by the applicant, specifically a floating fountain comprising a pressurized source of fluid located remote from the floating fountain, a tubular hollow base assembly comprising a tubular, hollow connection member disposed for receiving pressurized fluid from the pressurized source of fluid, a primary nozzle member, a plurality of secondary nozzle members, an infinitely variable valve disposed between the pressurized source of fluid and the connection member and a float body affixed to a bottom side of the base assembly, together in combination with the other claimed features of applicant's invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven J. Ganey whose telephone number is (571) 272-4899.

Art Unit: 3752

The examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel, can be reached on (571) 272-4919. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

sjg

12/21/04

  
STEVEN J. GANEY  
PRIMARY EXAMINER  
12/21/04